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ing any holder or holders thereof; and an ex parte report of a special commissioner is not such a pleading.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 919-929.* 10 Va.-W. Va. Enc. Dig. 78.]

9. Mortgages (§ 311*)—Deed of Trust—Decreeing Release—Necessary Parties.—Decree directing release of a deed of trust is void, being made in a proceeding to which persons secured thereby are not parties, and of which they are not given notice.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 919-929.* 16 Va.-W. Va. Enc. Dig. 750.]

10. Mortgages (§ 315 (1)*)—Deed of Trust—Release under Decree—Notice of Invalidity.—A release by the trustee of a deed of trust is not effective, so as to advance the lien of judgment creditors of the maker of the deed of trust; it showing on its face that it was under decree referred to therein, an examination of which, with the commissioner's report also referred to therein for the facts on which it was based, would show that the decree was void.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 942, 943, 945, 946, 948.* 16 Va.-W. Va. Enc. Dig. 750.]

Appeal from Chancery Court of Richmond.

Petitions by A. J. Bradley, administrator of John F. Herndon, deceased, and others, against the Murphy's Hotel Company, Incorporated, and others. Decree for petitions, and respondents appeal. Affirmed.

A. B. Dickinson, of Richmond, for appellants.

Wm. P. De Sausure, of Richmond, for appellees.

CITY OF NORFOLK *v.* GRIFFIN BROS.

March 15, 1917.

[91 S. E. 640.]

1. Constitutional Law (§ 230 (2)*)—Licenses (§ (2)*)—Occupation Taxes—Powers of Cities.—Norfolk City Charter provides that the city council may raise by taxes and assessments such sums as they deem necessary, and as it shall deem expedient, in accordance with the Constitution and laws of this state and of the United States. Tax Bill (Code 1904, p. 2238) § 90, provides that any person accepting contracts for work on any building requiring use of specified materials, or any other building material, shall be deemed a contractor, and that every contractor shall procure a license to carry on the business of a contractor. The city of Norfolk passed an ordinance requiring a separate license for doing the several kinds

*For other cases see same topic and KEY-NUMBER in all KEY-Numbered Digests and Indexes.

of work separately enumerated in the Tax Bill. Held, that the Tax Bill limited the power of classification of the city, so that the ordinance, so far as it required a number of licenses for the same work for which the state required but one license, was invalid; the conflict between ordinance and statute being in violation of spirit though not letter of U. S. Const. Amend. 14.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. § 687; Licenses, Cent. Dig. §§ 5, 6.* 9 Va.-W. Va. Enc. Dig. 308.]

2. Licenses (§ 6 (1)*)—Occupation Taxes—Powers of Cities.—The powers of the municipality are strictly construed in respect to its taxation of occupations.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. §§ 5, 6.* 9 Va.-W. Va. Enc. Dig. 308.]

Error to Circuit Court of City of Norfolk.

Proceeding by the City of Norfolk against Griffin Bros. Judgment in the circuit court dismissing the city's appeal from the judgment of the police justice, and the city brings error. Affirmed.

HODGES v. RICHMOND CEDAR WORKS.

March 15, 1917.

[91 S. E. 644.]

1. Constitutional Law (§ 70 (3)*)—Right of Private Owners to Drainage—Legislative Action—Conclusiveness.—The primary question of public use and necessity of drainage rights, having been determined by the Legislature under Code 1904, § 2576, is controlling on the course, in the absence of palpable want of foundation for the legislative pronouncement.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. § 131.* 3 Va.-W. Va. Enc. Dig. 212.]

2. Eminent Domain (§ 262 (3)*)—Review—Presumptions—Evidence Not Shown.—In proceeding for establishment of right of private owner to drain across another's land, where none of the evidence is certified, the court on writ of error must presume that a proper case was made out, where judgment went for complainant.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. § 683.* 5 Va.-W. Va. Enc. Dig. 113.]

3. Eminent Domain (§ 255*)—Review—Preservation of Exceptions—Constitutional Questions.—The question whether Code 1904, § 2576, providing for establishment of private drains across lands of

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